

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to residential care facilities for children and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 115, “Licensing and Regulation of Comprehensive Residential Facilities for Children,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 237.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 237.3.

Purpose and Summary

Chapter 115 was reviewed as part of the Department’s five-year review of rules. This chapter outlines the licensing and regulation standards for comprehensive regulations of residential care facilities for children. Proposed changes include updating language regarding additional contact time requirements with caseworkers per provider requests. Language regarding the use of chemical restraints is proposed to be removed. Expanded documentation requirements regarding the use of the control room are being proposed to align with other chapters.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 14, 2023. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subparagraph **115.4(2)“a”(3)** as follows:

(3) ~~At least one additional hour per week per~~ Additional contact as needed with each caseworker in other related duties including case intake discussions, staffings of cases, evaluations of the caseworker, teaching, and administrative duties.

ITEM 2. Amend rule **441—115.5(237)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section ~~237C.3~~ 237.3.

ITEM 3. Amend subrule 115.6(2) as follows:

115.6(2) Secure facilities. Secure facilities may use physical restraints, a control room, locked cottages, and mechanical restraints, ~~and chemical restraints~~.

ITEM 4. Amend paragraph **115.7(2)“c”** as follows:

c. Require documentation in writing of the types of behaviors leading to control room placement and the conditions that will allow the child to return to the living unit. The child shall be informed of these conditions. Documentation of control room use shall include, but not be limited to, the following:

- (1) Each use of the control room.
- (2) The time the intervention began and ended.
- (3) The reason that required the resident to be put in the control room.
- (4) The name(s) of staff involved in the intervention.